

## THE OFFICIAL CONTROL OF FOOD SUPPLY AND THE ALERT SYSTEM

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### **Abstract**

*The European Community food law is based on the principle that food business operators at all stages of production, processing and distribution within the businesses under their control are responsible for ensuring that food satisfies the requirements of food law that are relevant to their activities. Regulation (EC) No 882/2004 requires that Member States organize official controls to enforce food law, to monitor and verify that the relevant requirements thereof are fulfilled by business operators at all stages of production, processing and distribution.*

*The RASFF is a tool for quick exchange of information between its member on consignments of food and feed in cases where a risk to human health, to animal health and to the environment has been identified.*

*The purpose of the RASFF is to provide the control authorities with an effective tool for exchange of information on measures taken to ensure food safety. The legal basis of the RASFF is Regulation EC/178/2002. In January 2011, the Commission Regulation (EU) n. 16/2011 was published, laying down implementing measures for the Rapid alert system for food and feed.*

**Key words:** official control of food, safety, quality, hygiene, food

### **INTRODUCTION**

The Regulation (EC) no.882/2004 represents, at the European Union's level, the general authoritarian normative pertaining to the rules of organization and operation of official controls, which aim the assessment compliance with legislation regarding the food supply and the food for animals, as well as the instructions related to the health and welfare provisions of the animals.

As part of this normative deed, the concept of "*official control*" defined in art. 2 as "*any form of control by a competent authority or the Community with the purpose of verifying the compliance with food and the products for animals, and in addition, the provisions relating to the animal health and animal welfare*".

Official control appears as a series of operations carried out by the technical staff of the "competent authorities" belonging to Member States and the bodies subordinated to their control.

## MATERIAL AND METHOD

The statutory method for “official control” measures that the UE is to adopt and implement them in all member state to ensure a harmonized framework of general rules o food safety control. Regarding the early warning system method and regulation is to develop a set of rules at European level to ensure implementation of a coordinated system of information and swift action in case of food risk.

According to art. 3 of Regulation (EC) no. 882/2004, official controls take place at any stage of production, processing and distribution of food, animal food and animal products. These controls include *effective inspections, sampling, and analyzing them, checking the hygiene conditions of food businesses, health, and control of the business documents and examination of any applied control system operators in order to prevent health risk* (Costato L., 2003).

The official control types are:

- *Systematic checks* carried out in accordance with agreed programs and national union and set preliminary: general and specific objectives, period of time, nature, and frequency of interventions, appropriate measures to be adopted. For example, this category includes surveillance and control program (PSC) on food safety, a national plan for researching the dregs in foodstuffs of animal origin, the dregs control program of pesticides in plants and plant products etc.
- *Checks carried out in cases of allegations concerning compliance with regulations sanitary products - products in force.*

The objectives of official controls shall include:

- preventing, eliminating or reducing to acceptable levels the risks that may arise for people and animals;
- ensuring fair practices in food trade and food for animals;
- protection of consumer interests, including the labeling food products, as well as other forms of consumer information.

In terms of the organization, official controls should be performed *periodically* at a *frequency determined by the risks and without prior notice*, except for certain situations, as audits that need a prior notification of the operators from the food product or animal food area. Checks can be performed at any stage of production, processing, and distribution of food or animal food, and is performed under the same rules and with the same caution and imports / exports between the EU and third countries (Sandro A., 2010).

In determining the frequency of official controls in accordance with art. 3, paragraph (1) of Regulation (EC) no. 882/2004, there shall be taken into account:

- identified risks associated with animals, animal food or food businesses in the use of food or any process, material, substance, activity or operation that could affect food safety or animal food, animal health or animal welfare;
- the operators' history (Parras Rosa M. and Martínez Gutiérrez A., 2011) from the area of animal food or products, regarding the following of the legislation referring to animal food or products, animal health or welfare;
- reliability on any of the personal checks that have already been made;
- any information that might indicate non-compliance.

In each Member State, *competent authorities* are organized and they have as responsibilities, objectives and official controls present under Regulation (EC) no. 882/2004.

The competent authorities are able to delegate specific tasks to one or more *control authorities*, but only under the following conditions: be an accurate description of the control body functions that can perform and the conditions that it may undertake; there is evidence that the control body has the expertise, equipment and infrastructure necessary to carry out the duties delegated to it; have sufficient qualified and experienced personnel; be impartial and within itself, there must be no conflict of interest on the exercise of delegated powers;

The delegated control authorities operate subordinated to the competent authorities that communicate regularly or whenever they are requested, the results of checks that are being carried out. As an exception, control bodies are obliged to immediately inform the competent authorities, whenever the results of checks indicate non-compliance with legislation.

Delegation given to control bodies may be withdrawn if, following audits or inspections, it appears that they do not fulfill their duties properly granted. In addition, delegation may be withdrawn immediately if the body does not timely take appropriate remedial measures.

In Romania, the official control system is organized and operates through the National Sanitary Veterinary and Food Safety (N.S.V.F.S.) and its subordinate units, an institution organized under GD. 1415/2009 regarding the organization and functioning of the National Sanitary Veterinary and Food Safety and its subordinate units. A.N.S.V.S.A. functions as a specialized body of central public administration, with legal personality, subordinated to the Government and coordinated by the Prime Minister.

*The scope* of the National Sanitary Veterinary and Food Safety consists of *all actions, activities of veterinary, food safety, conducted to*

*ensure and guarantee animal health, public health, animal welfare, environmental protection, and food safety.*

Official controls in all Member States is provided on the basis of well documented procedures, using appropriate control methods and techniques such as ***monitoring, surveillance, verification, audit, inspection, sampling and analysis.***

The procedures followed by the official controls performed provide information and detailed instructions for carrying out their delegated staff. Each Member State has the task of securing the levers and the legal authorities to ensure that the staff has access to premises and documents kept by operators of food and food products, so that they can perform their duties accordingly.

Official controls completed by the competent authority necessarily end with the development of reports that include *a description of the purpose control, the applied methods the results that were found* and, when necessary, *measures that must be taken*. A copy of the report shall be communicated to the economic operator subject to control, especially in situations where there is non-compliance in relation to legislation.

The role of official controls is to ensure a permanent and continuous verification of compliance with the rules imposed by food safety legislation which obliges Member States linked with plans to have emergency operation on measures to be taken when food products or food presents a serious risk to human health or to the environment (art. 13 of Regulation (EC) no. 882/2004).

*Rapid Alert System for Food and Food Products (RASFF)* was organized to provide the competent authorities of Member States operating in food safety, a tool to allow rapid exchange of information in case of food risk (Rubino V., 2009).

The system structure is simple, such as to give operators on the EU market, the chance of a rapid and coordinated intervention. In essence, the network is meant to organize contact points located in each Member State and the European Commission and European Food Safety Authority (Capelli F. et al., 2003), points that communicate through established procedures.

The current legal basis of the Rapid Alert System for food and food products (RAFSS) is the *Regulation (EC) no.178/2002 (\*\*)* and *Regulation (EU) 16/2011 (\*\*\*)*.

In Regulation (EC) no. 178/2002, RAFSS is covered in Chapter IV, Section 1, which in art. 50, paragraph (1) specifies at union formation, as a network, a *rapid alert system for notification of a direct or indirect risk to human health deriving from food or feed. Paragraphs (2) - (6) of the same article set out rules on the operation* (Petrelli L., 2010).

From the summary analysis of the provisions of Art. 50, we emphasize the following key issues on the organization and operation of early warning system:

⇒ rapid alert system consists of *contact points* of Member States of the European Union, European Commission and EFSA and is open to third countries and international organizations including the extent they require their inclusion in the network (Banati D. and Klaus B., 2010) ;

⇒ each Member State (and the European Commission and EFSA) shall establish and make known their points of contact;

⇒ when a network member holds information about the existence of a serious risk, direct or indirect, on human health deriving from food or animal food, it is required to immediately notify the Commission rapid alert system. In turn, the European Commission after verification of the notification, transmits information to other members of the network ,including the EFSA;

⇒ the notice is required to be accompanied by a detailed explanation of why action was taken by the competent authorities of the Member State in which the notification was issued and information, especially when the measures of a notice are modified or withdrawn.

⇒ the notice can refer to any measures taken by a Member State to limit entry of food or food products presenting a risk to human health or to force their withdrawal from the market;

⇒ if the notification made by a Member State refers to the border blockade of food or food products from a third country, the Commission shall immediately communicate the information, not to all contact points of Member States, but to all border points of the EU and third country from which the products come from;

⇒ Member States shall transmit immediately to the Commission all relevant information on measures they have adopted to implement the notifications received from the system through early warning.

It is noted that the provisions of art. 50 establish **standard operative procedures** in case of risk to human health and the objectives are *speed and efficiency in taking measures, and also complete and timely communications, to remove risks as soon as possible* (Correr C., 2003; Lattanzi P., 2004; Marilgera E.F., 2011) .

**The alert** is to be activated in case of detection of harmful or dangerous food to public health, in particular, if there is a:

- detection of a food associated with epidemiological disease (toxic taint);

- detection in a food of toxic substances that can cause illness or other adverse consequences for consumers (direct or indirect risk);
- detection by authorities or persons in charge of the food industry (in case of self-control) of products that present an immediate risk to health;

Under Regulation (EC) no.178/2002 there is no definition of „**secure food**” (Gonzalez Vaque L., 2003) but it can be removed indirectly from the definition given in art. 3, concepts of "**risk**" (Galuzzo N., 2008) and "**danger**" and also the food security requirements, as specified in Art. 14. Thus, the notion of "*danger*" (or element of danger) means *a biological, chemical or physical agent, found in food or animal food or the condition of having the potential to cause an adverse health effect and by 'risk' we mean the likelihood and severity of an adverse negative effect for health, due to a danger* (Wiesten N. and Klein W., 1995).

According to art. 14 of the Regulation, the food is safe only when it is not injurious to health or unfit for human consumption.

To determine whether a food is unsafe (Canfora I., 2009), we should consider the following items: conditions of normal use of the food by the consumer, the conditions of normal use of the food in the stage production, processing and distribution information for consumers, including those on the label or other information generally available to the consumer (Germano A., 2010) .

To categorize a food as harmful to health there should be taken into account: the probable immediate and/or short-term or long term health of food that a person consuming it and the effects on future generations, cumulative toxic effects likely; particular sensitivity in terms of health, a specific category of consumers where the food is intended for that category of consumers.

A food is not fit for human consumption when the food is unacceptable for such use, according to its usage, due to *contamination* with a foreign substance (or otherwise), *putrefaction*, *deterioration* or *decomposition*.

The concept of "**serious risk**" expanded upon the entry into force of the Regulation (EU). 16/2011, and the notion of risk implies:

- **a direct or indirect risk to human health** from food derived from materials in contact with food or animal food, in accordance with Regulation (EC) 178/2002 or
- **a serious risk to human health** or for the environment arising from the animal food, in accordance to Regulation (EC) no.183/2005.

By Regulation (EU) 16/2011 (art. 8), it was made an update of the procedures for rapid alert system and an improvement in coordinates between Member States, the European Commission and EFSA.

To enable members to manage effectively the network notifications, the Regulation classifies them into two types:

- **initial notification**: alarm notification means a notification or a notification of rejection information at the border;
- **additional notification (notification of follow - up)** means a notice containing information concerning product risk, which was the subject of initial notification. Additional notification shall be sent immediately to the contact point of the Commission and from there to all members of the network (within 24 hours if it is an alarm notification).

The initial notification shall be divided into three categories:

**Alert Notification**: notification of risk that require or may require swift action in another member country. Network members must submit notifications to alert the Commission contact point with priority, within 48 hours after they were informed of the existence of a risk. Alert notifications must contain all relevant and available information on risk and the source product that caused the risk. The Commission contact point will send alert notifications to all network members within 24 hours of receipt, after checking the items specified in art. 8 of Regulation (EU). 16/2011

**Notification of information**: it is a risk that does not require notification of swift action in another member country. Network members must submit without undue delay such notification at the Commission contact point; in turn, the Commission, after notice to proceed to the check according to Art. 8 of the Regulation, shall transmit to other members of the network immediately.

Notification information can be of two types:

- **Information for follow-up notification**: means a notification information on a product that is or could be marketed in another member country;
- **Notice of information for consideration**: means a notification information on a product:
  - (i) no member is present only in the country that initiated the notification, or
  - (ii) has not been placed on the market, or
  - (iii) is no longer on the market.

Information notifications contain all available information, referring particularly to risk in addition, the source product that caused the risk.

**Notification of rejection at the border**: The border notification of rejection of a batch, a container or cargo of food or animal food. The users send this type of notification to a contact point of the Commission without undue delay. In turn, the Commission shall send notice of rejection at the border

quickly and the border control points (PIF) and designates points of entry. Regulation (EU) 16/2011 also provides **a procedure for amending or withdrawing the notification system**, the contact point of the Commission; if it is prove that, it is wrong or unfounded.

If the notified product is originating in **a third country** or distributed in its territory, it shall inform the competent authority of the State without undue delay.

## RESULTS AND DISCUSSIONS

The provisions of Articles 53-57 of Regulation (EC) No 178/2002 (Bolognini S., 2008) state the necessary measures to be taken in emergencies. They were adopted because of experience gained at the various food crises at regional or even global levels. They have shown that in an emergency - serious risk to human or animal health or the environment -it is very important to have adequate and effective means to ensure that all food and animal food are subject to uniform measures. To ensure the possibility of taking coordinated action in emergency management of food safety in the European Union, Regulation (EC) No 178/2002 of the Commission assigned specific powers (Capelli F. et al., 2006). More specifically, when it is found that food or animal food presents a serious risk to human health, animal health or the environment, and this risk can not be contained satisfactorily by measures taken by the Member State in which the risk appeared, the Commission, on its own initiative or at the request of the Member State concerned, shall immediately take one of the measures indicated in the article. 53 paragraph. (1) of Regulation (EC) No 178/2002.

The type of measures that can be taken in such cases depends on the origin of food or animal food and may be:

✓ *in the case when food products or animal food came from the European Union:*

- suspension of the marketing or use of the food;
- suspension of the marketing or use of such animal food;
- set special conditions for food or the animal food in question;
- any other appropriate measures

✓ *in the case when food products or animal food came from a third country:*

- suspension of imports of food or animal foods in question from all relevant third country or a part of its territory and, when appropriate, third country of transit;
- set special conditions for food or animal food in question from all relevant third country or a part from there;
- any other appropriate measures.

When the Member State officially inform the Commission of the need to take emergency measures but the Commission fails to take them, the Member State may adopt provisional protective measures itself, by informing the Commission and other Member States on the taken measures.

Under *the principle of transparency* (Alemanno A., 2007) that underlies the entire food law and in accordance with the principle of informed citizens, *information on risk* available to network members *must be communicated to citizens* who have right of access at the data elements of product identification, the nature of risk and measures (Benelli M., 2009; Banati D. and Klaus B., 2010). That information, which by its nature is covered by professional secrecy but protected by its confidentiality, is guaranteed. However, when justified for reasons of human health protection, information must necessarily be made public; it cannot be regarded as confidential.

The competent authorities always have the ability to communicate to both consumers and economic operators, useful relevant information, in order to improve market surveillance and enforcement requirements of food law (Albisinni F., 2011). But it is absolutely necessary to ensure a balance between the interests of the consumers (Stanko M., 2010), which must be strictly protected, and the market traders of food and animal food, which in turn could be seriously affected in case of disseminating erroneous information. This exercise obliges to caution in food safety.

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